

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA)	
)	
VS.)	
)	No. 1:02 CR 743-7
)	
)	
PETER GOTTI,)	<u>SECOND SUPPLEMENTAL</u>
)	<u>REPLY TO GOVERNMENT RESPONSE</u>
)	
Defendant)	

This second supplemental reply is submitted on behalf of the defendant Peter Gotti, by his counsel, in support of his First Step Act compassionate release motion (Doc. 412) filed June 28, 2019. Four additional contested compassionate release orders have come to our attention, all from Judge Boyle in the Eastern District of North Carolina.

Harry Freemont Barr Jr. and Peter Gotti have much in common. Barr was convicted in 1991 of cocaine distribution, racketeering, and firearms charges. And was sentenced to 430 months. At age 70 he has served more than 28 years in custody. Barr has recently suffered a stroke and uses a walker to get around at FMC Butner. He has severe COPD and goes through up to 5 tanks of oxygen a day. He has diabetes and polyneuropathy, and his BOP release date is December 4, 2022.

The Government of course opposed compassionate release, contending, inter alia, that Barr would pose a danger to the community if released, just as the Government contends Peter Gotti would in this case. Judge Boyle granted the motion for compassionate release and reduced the sentence to time served on October 3, 2019, United States v. Barr, No. 5:90 CR 45 (EDNC). A copy of the order is attached and incorporated herein.

In United States v. Camp, No. 5:11 CR 155 (EDNC), the Court noted that:

Camp suffers from numerous health conditions, which include aortic valve disorder and status-post macula retinal detachment. While serving his term of imprisonment, Camp has become legally blind and suffered an ischemic stroke while undergoing surgery for sudden cardiac arrest which resulted in left side paralysis. He has been diagnosed with congestive heart failure and cerebrovascular disease. A BOP social worker described Camp's prognosis as poor.

Roger Camp's BOP release date is April 2, 2020. Nonetheless, the Government opposed compassionate release and reduced the sentence to time served. A copy of the order is attached and incorporated herein.

In United States v. Privette, No. 7:07 CR 133 (EDNC). Judge Boyle noted that:

While incarcerated, Privette has experienced two atrial fibrillation episodes which required care in an outside cardiac intensive care unit. Privette has also undergone knee replacement surgery, hernia repair, and a radical retropubic prostatectomy. Privette anticipates needed cataract, knee, and back surgery in the near future. Privette also anticipates the possibility of another atrial fibrillation episode.

Henry Privette's BOP release date is March 17, 2021. Nonetheless the Government, ever consistent, opposed compassionate release, as usual in these cases to no avail. On October 10, 2019 Judge Boyle granted compassionate release and reduced the

sentence to time served. A copy of the release order is attached and incorporated herein.

Robert Lee McQueen was sentenced to 169 months in 2010 for heroin distribution and a firearms charge. He is now 70 and has a BOP release date of March 11, 2020. He also has rheumatic heart disease, polyneuropathy, diabetes, Bell's Palsy, and Parkinson's disease. Although his BOP release date was but 137 days away, the Government as usual opposed compassionate release, and as usual, to no avail. Judge Boyle on November 1, 2019 granted compassionate release and reduced the sentence to time served, United States v. McQueen, No. 5:09 CR 253 (EDNC). A copy of the release order is attached and incorporated herein.

Given the strong support of the President, the Attorney General, the DOJ Inspector General, the Sentencing Commission, and so many members of both houses of Congress of both parties for the First Step Act, one would suppose that the time will soon come when the Government will stop deferring to the BOP in these sad cases.

For all the above reasons and those set forth in the pending motion, and our previous filings, we continue to pray the Court for the compassionate release of Peter Gotti under the First Step Act.

Respectfully submitted,

/s/ James B. Craven III

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CERTIFICATE OF SERVICE

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This 4th day of November 2019.

/s/ James B. Craven III
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